(17)

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cf 1700/

IN THE HIGH COURT OF JUDICATURE AT BILASPUR (CHHATTISGARH)

WRIT PETITION NO. 2794 OF 2002

PETITIONERS :- 1 Rajendra Patel S/o Muniraj Patel
aged about 28 years.

2 Anju Pratap Singh S/o Samayraj Singh
aged about 24 years.

3 Pankaj Tiwari S/o Ramayan P.Tiwari
aged about 32 years.

4. Mahendra Tiwari S/o Raghunath P.Tiwari
aged about 30 years.

5. Rammani Shukla, S/o Harivansh Pd.Shukla
aged about 29 years.

6. Mangaldas Chirthlahare S/o M.D.Chirthlahare
aged about 30 years.

7. Arurendra Mishra S/o Dharendra Pd. Mishra
aged about 31 years.

8. Awadhesh Paekra S/o Bashu Sai Peakra
aged about 29 years.

9. Sanjay Singh S/o Lalji Singh,
aged about 25 years.

10. Gulam Varish Khan S/o R.Khan, aged about 32 yr.

11. C.H. Divakar Rao S/o C.H. Chandra Shakar Rao,
aged about 32 years.

12. Nelesh Vankheday S/o Meghshyamwan
aged about 23 years

13. Nandu Netake S/o Danagdu Netake
aged about 28 years.

14. Rajendra Sahu S/o Ghasiram Sahu
aged about 32 years.

15. Bhiaghunath Yadav S/o Bhula Yadav
aged about 32 years.

16. Satish Singh Senger S/o Jagat Bhadur
aged about 29 years.

17. Brijesh Tiwari S/o Devdat Tiwari,
aged about 28 years.

P.R. No. - Received on 12.12.02 Presented by Shri Shiv Kumar Singh

उपायुक्त एस.के. शुक्ला बिलासपुर (छ.ग.)

All employees of HAWK FORCE, Petitioner 3,4,17 belonging to 6 Batalin, Petitioner 12,13,14 belonging to 1st Batalin, remaining petitioner belonging to 4th Batalin.

VERSUS

RESPONDENTS :- 01. The State of C.G. Through Sec.Home Deptt. D.K. Bhawan, Raipur (C.G.)

02. The State of M.P., Through Sec. Home, Vallabh Bhawan Bhopal M.P.

03. D.G.P. (Director General of Police) Vallabh Bhawan Bhopal (M.P.)

04. Director General of Police, D.K. Bhawan, Raipur (C.G.)

12-12-02

(8)

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WRIT PETITION UNDER ARITICLE 226/227 OF THE CONSTITUTION OF INDIA

(38)

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... W.P. 2794/ ..... **सन् 2002**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश 4-5-2005	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

On a mention being made, the matter is taken up for hearing.

Mrs. Anju Ahuja, counsel for the petitioners.

Mr. Sanjay Shyam Agrawal, Govt. Advocate for the State/ respondents No.1 & 4.

Return has already been filed on behalf of the State/respondents No.1 & 4. As far as respondents No.2 & 3 are concerned, they are not necessary party.

Heard both the counsel for final disposal of this petition.

The petitioners' case is that the State Government took a decision to raise 'Hawk Force' for Anti Naxalite Operations, and the employees posted in the Hawk Force were to be given 70% basic pay as Naxalite Operation Risk Allowance, and the circular issued by the Additional Secretary (Home) to this effect is Annexure P-1. The said Hawk Force was formed on 25-10-1999 and the persons selected were asked to undergo special training at the PTC, Borgaon. The petitioners having completed their training on 5-2-2000 for 90 days at PTC, Borgaon and clearing the same were posted at different Naxalite effected areas, particularly Balaghat, Rajnandgaon, Dantewada, Bastar & Surguja respectively. The petitioners were supposed to perform their duties in extreme areas in adverse circumstances and they were not given the welfare benefits to which they were entitled being in Police Department.

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P.2794/ **सन् 200** 2

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश - 2 -	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

The petitioners were working in extremely Naxalite effected areas. Ultimately, the petitioners have prayed that the respondents be directed to pay 70% of basic pay as Naxalite Operation Risk Allowance with effect from 25-10-1999 till 3-4-2002, when the said Hawk Force was discontinued.

In the return filed on behalf of the State/respondents No.1 & 4 it has been mentioned that the Hawk Force was discontinued with effect from 3-4-2002 and there is no question of payment of allowance in this regard. It has further been mentioned that the State of Madhya Pradesh and the Director General of Police, Madhya Pradesh would be in a better position to bring the correct facts to the knowledge of this Court. It has not been pointed out in the writ petition that whether the said decision was implemented or whether the non-recurring expenditure of Rs.274.93 lakhs was sanctioned or not. Though the decision was taken by the then State of Madhya Pradesh to sanction a non-recurring expenditure of Rs.274.93 lakhs for payment of Naxalite Operation Risk Allowance to the members of the Hawk Force, but it is not clear as to whether the said decision was implemented or whether the amount was sanctioned. Therefore, the writ petition be dismissed.

Learned counsel for the petitioners submits that the petitioners worked as members of the Hawk Force under the scheme Annexure P-1 from 1999 till the said scheme was discontinued on 3-4-2002. She

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P.2794/ **सन् 2002**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश - 3 -	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

further submits that after re-organization of the State, the employees who were members of the Hawk Force and remained part of the State of Madhya Pradesh have already been paid the said 70% allowance, but the State of Chhattisgarh has not paid any amount to the petitioners. Learned counsel also submits that the petitioners have made a representation Annexure P-4, but the respondents have not responded.

On the other hand, learned Govt. Advocate for the State of Chhattisgarh submitted that the order was passed by the erstwhile State of Madhya Pradesh and the State of Chhattisgarh is not aware of the same.

Having heard learned counsel for the parties, I have perused the record. It is evident from Annexure P-1 that on 20-9-1999 the erstwhile State of Madhya Pradesh when it was a unified State of Madhya Pradesh issued the circular (Annexure P-1) regarding creation of Hawk Force for controlling the Naxalite activities, and it was decided that the members of the Hawk Force will be entitled for 70% of the basic pay as Naxalite Operation Risk Allowance. It has not been denied by learned counsel for the State of Chhattisgarh/respondents No.1 & 4 that this circular was not issued and it has also not been denied that the petitioners have not worked as members of the said Hawk Force. Mere evasive return has been filed on behalf of the State/respondents No.1 &

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P.2794/ **सन् 2002**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश - 4 -	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

4. Even the representation (Annexure P-4) made by the petitioners has not been decided by the respondents.

Therefore, in the circumstances, in view of Annexure P-1 and the averments made in the writ petition, and specifically it has not been denied by the respondents that the petitioners have not worked as members of the Hawk force during the period from 25-10-1999 to 3-4-2002, I am of the opinion that the petitioners are entitled for 70% risk allowance as per Annexure P-1.

In the result, the writ petition is allowed and respondents No.1 & 4 are directed to pay 70% of the basic pay as risk allowance to the petitioners as per the circular Annexure P-1. However, respondents No.1 & 4 will be entitled to ascertain in each and every case about the duty discharged by the petitioners and the petitioners will be entitled for payment under Annexure P-1 only for the period for which they worked as members of the Hawk Force during the period 1999-2002.

Parties are entitled for certified copy of this order.

Sd/-
L.C. Bhadoo
Judge

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